THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO. 14442 of 1996

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DATED: 30-01-2006

BETWEEN:

M. Sivakumar and three others … Petitioners

And

The Revenue Divisional Officer,

Gudur and another … Respondents

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO. 14442 of 1996

ORDER:

The case of the petitioners is that they, who are landless poor people, had entered into possession of land in Survey Nos.296/2a, 296/1B and 296/2B and raised structures therein and that they have been paying taxes to the local body in respect of the structures raised by them and that their possession is also certified by the Mandal Revenue Officer by issuing Possession Certificates, but respondents, with a view to assign that land to some others are trying to evict them from the land in their possession by force without following due process of law and even without considering the applications filed by them for

assignment of lands in their possession, in their favour.

2. In the counter-affidavit filed by the second respondent on behalf of the respondents he admitted the possession of the petitioners and alleged that in as much as the Gram Panchayat, Naidupet made a representation to the Collector to evict encroachments in the kunta poramboke, and as objectionable encroachments have to be removed, and as it is planning to construct a shopping complex after evicting the unauthorized encroachers, to provide livelihood to poor Scheduled Caste and Scheduled Tribe people and other weaker sections of the society, petitioners are not entitled to any relief.

3. At the time of admission of the Writ Petition by the order dated 23-07-1996 in W.P.M.P.No.17654/1996 the learned Judge passed the following order.

> "The petitioners are in occupation of certain extent of land admeasuring 1 ½ cents each situated in Sy.Nos.296/2A, 296/1B, 296/2B and 296/2B part respectively of Vinnamala Revenue Village, Naidupet Gram Panchayat, Nellore District. They have constructed thatched houses and are residing there. The Mandal Revenue Officer has also issued occupancy certificate dated 11-11-1994. The petitioners cannot therefore be dispossessed from the said land except by following due process of law.
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> Accordingly, pending further orders, there shall be a direction to the respondents not to interfere with the possession or enjoyment of the petitioners over their respective extents of land in the aforesaid survey numbers. However, the respondents are at liberty to initiate any proceedings in accordance with law after issuing appropriate notice and affording an opportunity of being heard to the petitioners."

that order is still in force.

4. Learned counsel for the petitioners relying on ***G.KANTA AND OTHERS v. DISTRICT COLLECTOR, WARANGAL*** contended that the action of the respondents in trying to evict the petitioners without disposing of the application for assignment filed by them is highly irregular. Learned Assistant Government Pleader sought time on the ground that he has to verify if petitioners filed any

application for assignment or not.

5. Irrespective of the question whether petitioners filed any application for assignment or not, respondents trying to interfere with the possession of petitioners without following due process of law, when their possession is admitted, is highly irregular. That is the reason why they were directed by an interim order not to interfere with the possession of the property, and were permitted to initiate proceedings according to law after issuing notice.

6. If the petitioners have filed any application for assignment, second respondent shall pass appropriate orders on the said application, after taking into consideration their eligibility etc. and only after disposal of that application can the respondents initiate proceedings for their eviction by taking recourse to due process of law.

7. With the above direction, the writ petition is disposed of. No costs.

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C.Y. SOMAYAJULU, J.

Dated: 30-01-2006

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